

REQUEST FOR PROPOSAL (RFP)

ISSUE DATE: February 2, 2022

RFP NUMBER / TITLE: TRSDHRM22-01 / Actuarial Services

COMMODITY CODES: 91804, 91849, 91869, 94612, 94620, 94648

ISSUING AGENCY: Commonwealth of Virginia  
Department of Human Resource Management  
James Monroe Building, 13<sup>th</sup> Floor  
Richmond, VA 23219

USING AGENCIES:

Commonwealth of Virginia  
Department of Treasury  
Division of Risk Management  
PO Box 1879  
Richmond, VA 23218-1879

Commonwealth of Virginia  
Department of Human Resource Management  
Office of Workers' Compensation  
101 North 14<sup>th</sup> Street, 6<sup>th</sup> Floor  
Richmond, VA 23219

Initial Period of Contract: From May 1, 2022 through April 30, 2025 (\*Renewable).

Sealed Proposals Will Be Received Until 2:00 PM Wednesday, February 16, 2022 For Furnishing The Goods/Services Described Herein.

All Inquiries For Information Should Be Directed To: Todd Hopkins E-Mail: todd.hopkins@dhrm.virginia.gov.

IF PROPOSALS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF PROPOSALS ARE HAND DELIVERED, USE SAME ADDRESS.

In compliance with this Request For Proposals (RFP) and all conditions imposed in this RFP, the undersigned firm hereby offers and agrees to furnish all goods and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation, and the undersigned firm hereby certifies that all information provided below and in any schedule attached hereto is true, correct, and complete.

\*Virginia Contractor License No. \_\_\_\_\_

\*DSBSD-certified Small Business No. \_\_\_\_\_

Class: \_\_\_\_\_ Specialty Codes: \_\_\_\_\_

Name and Address of Firm:

_____	Date: _____
_____	By: _____
_____	(PRINTED NAME)
_____	(SIGNATURE IN INK)
_____ Zip Code: _____	Title: _____
Fax Number: ( ) _____	Telephone: ( ) _____

**Note:** This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.e in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

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## I. PURPOSE:

The purpose of this Request For Proposals (RFP) is to solicit proposals to establish a contract through competitive negotiation to provide actuarial services to the Department of the Treasury, Division of Risk Management (TRS/DRM) and the Department of Human Resource Management, Office of Workers' Compensation (DHRM/OWC). Actuarial services include assisting in the evaluation of funding, reserving, claim payment, premium allocation and dividend calculation practices for its various programs. TRS/DRM's programs include automobile liability, general liability, medical malpractice, fidelity, property, local government liability, Constitutional Officer and commuter rail liability. DHRM/OWC's program is workers' compensation.

## II. BACKGROUND:

All programs are self-insured except property. The actuarial work performed under the expiring contract is identical for the programs, although there were special studies conducted periodically. Copies of previous studies, exposures, premium and loss exhibits will be provided to the Contractor if necessary after the award.

## III. STATEMENT OF NEEDS:

- A. **CONTRACT REQUIREMENTS:** The Contractor shall perform actuarial studies for TRS/DRM and DHRM/OWC with the objective of providing information leading to fiscally sound risk management programs. The Contractor shall, in addition, provide advisory and consulting services as may be required by TRS/DRM and DHRM/OWC. These services should include, but are not limited to:
1. Development of financial requirements related to the maintenance of a stable reserve fund in excess of individual program funds.
  2. An annual actuarial analysis and recommendations performed as of December 31 and June 30 of each year and should include elements listed below for each program. The December 31 report should contain the estimated reserve and reserve position as of June 30 of the following year. TRS/DRM and DHRM/OWC will not require the formal December 31<sup>st</sup> analysis except as needed as a special project.
    - a. Estimated unpaid loss and allocated loss adjustment expenses (ALAE). Estimates are to be provided on a nominal basis and discounted basis. Estimates are to be provided on an expected value basis and at various confidence levels.
    - b. Projections of prospective year losses and ALAE.

- c. Cash flow projections based on anticipated receipt of funds and payment of financial obligations.
  - d. Total funding requirements for claims, loss control and administrative expenses under various scenarios as directed by the Commonwealth.
  - e. Pro-forma accounting exhibits for five years under various funding scenarios.
  - f. Benchmark graphs.
3. The contractor shall provide estimates and exhibits to meet GASB requirements.
  4. Premium allocations and individual premium statements among approximately 134 state agencies and 600 local governmental entities annually. The draft is due by August 1 and the final by August 20. Premium allocations are based on a combination of individual agency loss experience and exposures for programs. Programs annually include
    - a. DHRM/OWC - Workers' compensation
    - b. TRS/DRM - Automobile liability, general liability, medical malpractice, fidelity, property, local government liability, Constitutional Officer and commuter rail liability
  5. Special projects involving premiums, funding, legislation initiatives and studies.

#### B. CONTRACTOR PERFORMANCE:

The requirements of this contract should be performed in the most cost-effective manner following good business practices and procedures. In order to ensure effective communications the Contractor should meet with Commonwealth staff and officials no less than three times per year. These meetings should involve a discussion and explanation of aspects of the various reports submitted by the Contractor, as well as current situations and other information. At the discretion of TRS/DRM or DHRM/OWC, these meetings may be in person or via teleconferencing.

#### C. INFORMATION TO BE PROVIDED BY TRS/DRM and DHRM/OWC:

TRS/DRM and DHRM/OWC will provide the Contractor with reserve, payment, administrative expenses, exposure and third party administrator's reports by August 15 of each year. Projections of future year's administrative expenses, exposure data, and payroll data will also be provided as needed.

#### IV. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS:

##### A. GENERAL REQUIREMENTS:

1. Electronic proposal submission with required documents attached is required. Offeror must be registered in eVA in order to submit an electronic proposal. Offeror must submit one (1) complete copy of the proposal and attachments. If proposal contains proprietary information, offeror must submit one (1) complete copy of the redacted proposal and attachments.

The following are instructions for submitting and electronic proposal:

- a. Go to [www.eva.virginia.gov](http://www.eva.virginia.gov) ;
- b. Click on "I Sell to Virginia";
- c. Click on "eVA Vendor Training"; and
- d. Click on "Respond to IFBs – RFPs and more".

**If an offeror need assistance submitting an electronic response, the offeror must contact eVA Customer Care at 1-866-289-7367 or email [eVACustomerCare@dqs.virginia.gov](mailto:eVACustomerCare@dqs.virginia.gov)**

##### 2. PROPOSAL PREPARATION:

- a. An authorized representative of the Offeror shall sign proposals. All information requested should be submitted. Failure to submit all information requested might result in the Issuing Agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Mandatory requirements are those required by law or regulations or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c. Proposal should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents, which cross-references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an

appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- d. Ownership of all data, materials and documentation originated and prepared for the Department pursuant to the RFP shall belong exclusively to the Department and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of Section 2.2-4342 of the Code of Virginia, in writing, at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified as required and must indicate only the specific words, figures, or paragraphs which constitute trade secrets or proprietary information. The Department, in its sole discretion, may not consider proposals with unduly broad requests for protection against disclosure

#### B. SPECIFIC REQUIREMENTS:

Proposals should be as thorough and detailed as possible so that TRS/DRM and DHRM/OWC may properly evaluate your capabilities to provide the required services. Offerors are requested to submit the following items as a complete proposal:

1. The return of the cover page to this RFP and all subsequent addenda, if applicable, signed and filled out as required.
2. A written narrative statement describing your experience and qualifications to perform the work described in the Statement of Needs in this RFP; in addition, if the Offeror anticipates using a subcontractor, the same information must be submitted concerning the proposed subcontractor. The narrative statement should include:
  - a. The number of years performing actuarial services for organizations involved with claims payment and investigation. This includes workers' compensation, automobile liability, medical malpractice, fidelity, various public entity errors and omissions, general liability and property exposures. If studies have been conducted for state governments, this should be stated, including the subject, date and the name and phone number of a point of contact.

- b. A list of at least three current and three terminated accounts of similar size and exposure. Provide names, addresses and phone numbers for the points of contact for these accounts.
  - c. Resumes of staff personnel to be assigned to the contract by office, including office location. Identify the person who will be the principal contact for contract administration. Provide the name of the principal actuary and any other actuaries that will support the different products covered by this RFP. Include any professional certifications held by these persons.
- 3. Proposed billing cycle for providing services. All charges must incorporate routine office and administrative expenses, travel, reproduction, office supplies, telephone charges, etc.
  - 4. Specimen copies of reports, premium recommendations and analysis, and graphs provided to clients for same lines of coverage. This will enable TRS/DRM and DHRM/OWC to evaluate the readability of the Offeror's reports. These may be sanitized to protect the identity of the client.

C. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:

- 1. It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All offerors are required to submit a Small Business Subcontracting Plan. Unless the offeror is registered as a DSBSD-certified small business and where it is not practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses when they have received DSBSD small business certification. No offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.
- 2. Each prime contractor who wins an award in which a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution on a \_\_\_\_\_ (insert monthly, quarterly, or other frequency) basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. Upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum

the following information: name of firm with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.

#### D. MODIFICATION OF PROPOSALS:

Any changes, amendments or modifications of an offeror's proposal prior to the deadline for receipt of proposals must be in writing and submitted in the same manner as the original proposals. All modifications must be labeled conspicuously as a change, amendment, or modification of the previously submitted proposal. Changes, amendments, or modifications of proposals will not be considered after the deadline for receipt of proposals, except when the Department requests modifications.

#### E. INQUIRIES CONCERNING THE RFP:

Any communication concerning this RFP or any resulting contracts must be addressed in writing to:

Mr. Todd J. Hopkins  
Department of Human Resource Management  
James Monroe Building, 13th Floor  
101 North 14th Street  
Richmond, Virginia 23219  
E-mail Address: [todd.hopkins@dhrm.virginia.gov](mailto:todd.hopkins@dhrm.virginia.gov)

#### F. PUBLIC INSPECTION OF PROCUREMENT RECORDS:

Proposals will be subject to public inspection only in accordance with Section 2.2-4342 of the Code of Virginia.

#### G. CLARIFICATION OF PROPOSAL INFORMATION:

The Department reserves the right to request verification, validation or clarification of any information contained in any of the proposals. This clarification may include checking references and securing other data from outside sources, as well as from the offeror.

#### H. REFERENCE TO OTHER MATERIALS:

The offeror cannot compel the Department to consider any information except that which is contained in its proposal, or which is offered in response to a request from the Department. The offeror should rely solely on its proposal. The Department, however, reserves the right, in its sole discretion, to take



into consideration its prior experience with offerors and information gained from other sources.

I. TIMETABLE:

RFP Published	February 2, 2022
Proposals Due:	February 16, 2022

V. EVALUATION AND AWARD CRITERIA:

A. EVALUATION CRITERIA:

Proposals shall be evaluated using the following criteria:

- 35% Innovation, Qualifications and experience of the Offeror in providing the desired services.
- 25% Qualifications and experience of personnel who will be assigned to provide the desired services.
- 10% References.
- 10% Readability of reports and other information submitted.
- 20% SWAM (**Provide utilization for first year only**).

B. AWARD:

The purchasing agency shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternate concepts. At the discussion stage the purchasing agency may discuss non-binding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews, on the basis of evaluation factors published in the Request for Proposals and all information developed in the selection process to this point, the purchasing agency shall select, in the order of preference, two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted; beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the purchasing agency can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on, until such a contract can be negotiated at a fair and reasonable price.

Should the purchasing agency determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

VI. REPORTING AND DELIVERY REQUIREMENTS:

A. INFORMATION TO BE PROVIDED:

The Contractor shall submit the information listed below to the TRS/DRM and DHRM/OWC on an annual basis. A separate set of reports shall be provided to each Agency in the number required by each Agency in hard copy or electronic copy as directed by each Agency. All information should be provided no later than September 15 of each year unless otherwise stated or agreed. Information shall also be provided in electronic format.

1. Programs Annual Actuarial Analysis and Recommendations: The contractor shall compile all TRS/DRM programs in one document with the information organized by program. Stability reserve fund status should be included with this information. A separate program document for the Workers' Compensation Program shall be provided to the DHRM/OWC.
2. Incurred but Not Reported (IBNR): An analysis of factors needed to apply to year-end reserves shall be provided. These factors should reflect claims that have been incurred, but have not been reported to the respective agency (TRS/DRM or DHRM/OWC).
3. Premium Delivery: Premium allocations and individual premium statements are due in draft before August 1 and in final form by August 20 for TRS/DRM and in draft before September 1 and in final form by September 20 for DHRM/OWC.

B. READABILITY OF INFORMATION:

Any information or reports submitted by the Contractor must be readable by a varied audience. Emphasis is placed on the fact that the reports will be read by non-insurance, non-financial, as well as, financial persons. It is imperative that reports and other information be presented in a straightforward, non-technical manner.

VII. GENERAL TERMS AND CONDITIONS:

A. VENDORS MANUAL:

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the *Vendors Manual*. (Note

section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at [www.eva.virginia.gov](http://www.eva.virginia.gov) under "I Sell To Virginia".

#### B. APPLICABLE LAWS AND COURTS:

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

#### C. ANTI-DISCRIMINATION:

By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

##### 1. During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - d. If the contractor employs more than five employees, the contractor shall
    - (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and
    - (ii) post the contractor's sexual harassment policy in
      - (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and
      - (b) the contractor's employee handbook.
  - e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
  - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

#### D. ETHICS IN PUBLIC CONTRACTING:

By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or

subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

**E. IMMIGRATION REFORM AND CONTROL ACT OF 1986:**

By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

**F. DEBARMENT STATUS:**

By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

**G. ANTITRUST:**

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

**H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs:**

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

## I. CLARIFICATION OF TERMS:

If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

## J. PAYMENT:

### 1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351.,. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:
    - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
    - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
  - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
  4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. PRECEDENCE OF TERMS:

The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

#### L. QUALIFICATIONS OF OFFERORS:

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

#### M. TESTING AND INSPECTION:

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

#### N. ASSIGNMENT OF CONTRACT:

A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

#### O. CHANGES TO THE CONTRACT:

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an



adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

#### P. DEFAULT:

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

#### Q. INSURANCE:

By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors

are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

**MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.

**Profession/Service**

**Limits**

Accounting

\$1,000,000 per occurrence,  
\$3,000,000 aggregate

Insurance/Risk Management

\$1,000,000 per occurrence,  
\$3,000,000 aggregate

**R. ANNOUNCEMENT OF AWARD:**

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice in eVA ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of 10 days.

**S. DRUG-FREE WORKPLACE:**

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the

contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

#### T. NONDISCRIMINATION OF CONTRACTORS:

An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

#### U. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:

The eVA Internet electronic procurement solution, web site portal [www.eVA.virginia.gov](http://www.eVA.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

1. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:
  - a. DSBSD-certified Small Businesses: 1%, capped at \$500 per order.

- b. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.
2. Refer to Special Term and Condition “eVA Orders and Contracts” to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at [www.eVA.virginia.gov](http://www.eVA.virginia.gov).

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

#### V. AVAILABILITY OF FUNDS:

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

#### W. SET-ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY:

This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated as “Micro Business Set-Aside Award Priority” or “Small Business Set-Aside Award Priority” accordingly in the solicitation. DSBSD-certified micro businesses or small businesses also includes DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, bidders/offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of bids/proposals.

#### X. BID PRICE CURRENCY:

Unless stated otherwise in the solicitation, offerors shall state offer prices in US dollars.

#### Y. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:

A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body

pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

## Z. CIVILITY IN STATE WORKPLACES:

The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

## VIII. SPECIAL TERMS AND CONDITIONS:

### A. AUDIT:

The Contractor hereby agrees to retain all books, records and other documents relative to this contract for five years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. Each agency, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.

### B. AWARD:

The Commonwealth shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage the public body may discuss non-binding estimates of total project costs, including, but not limited to, life-cycle costing, and, where appropriate, non-binding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews, on the basis of evaluation factors published in the Request for Proposals and all information developed in the selection process to this point, the purchasing agency shall select, in the order of preference, two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the purchasing agency can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on, until such a contract can be negotiated at a fair and reasonable price. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

### C. CANCELLATION OF CONTRACT:

DHRM/OWC and TRS/DRM reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the contractor, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation

notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

#### D. eVA ORDERS AND CONTRACTS:

It is anticipated that the contract will result in multiple purchase orders with the eVA transaction fee specified below assessed for each order.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eVA.virginia.gov](http://www.eVA.virginia.gov). Contractors should email Catalog or Index Page information to [eVA-catalog-manager@dgs.virginia.gov](mailto:eVA-catalog-manager@dgs.virginia.gov).

#### E. PRICE ADJUSTMENTS:

1. The initial price is to be in effect for three years. Subsequent adjustments shall be as determined below. All adjustments will be effective on the contract anniversary or extension date.
2. The Contractor shall submit written requests for price adjustments to the TRS/DRM and the DHRM/OWC no less than one hundred twenty days (120) prior to the expiration date of the contract. TRS/DRM and DHRM/OWC will notify the Contractor in writing of any increase approved.
3. Price adjustment will be based on the Services, category of the CPI-W of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available. If the CPI-W indicates a price decrease for such period, this decrease shall be passed on to the TRS/DRM and the DHRM/OWC.

#### F. RENEWAL OF CONTRACT:

The initial term of this contract is three years. The contract may be renewed by the Commonwealth for two successive one-year periods under the terms and conditions of the original contract. The price may be adjusted for each additional period by written request in accordance with Section IX.E.

#### G. METHOD OF PAYMENT AND BILLING:

The standard form of payment utilized by the Commonwealth is by EDI (See Appendix 1 for description). Unless a different method is agreed upon through

negotiations, the contractor must complete the EDI agreements required by the Department of Accounts.

1. The Contractor's fees shall be paid monthly upon receipt of a valid invoice for services.
2. Invoices for special projects shall be submitted by the Contractor directly to either TRS/DRM or DHRM/OWC for the services provided respectively. All invoices shall show the state contract number, to whom services were provided, and a summary of the services provided for each time period.
3. Invoices shall be submitted to the respective using agency as indicated below:

Department of the Treasury  
Division of Risk Management  
Attn: Brian Parker  
P.O. Box 1879  
Richmond, VA 23218-1879

Department of Human Resource Management  
Office of Worker's Compensation  
Attn: Aubrey Chigwada  
101 North 14<sup>th</sup> Street, 6<sup>th</sup> Floor  
Richmond, VA 23219

**H. SUBMISSION OF SMALL BUSINESS SUBCONTRACTING PLAN, EVIDENCE OF COMPLIANCE WITH SMALL BUSINESS SUBCONTRACTING PLAN, AND SUBCONTRACTOR REPORTING :**

1. Submission of Small Business Subcontracting Plan: It is the statewide goal of the Commonwealth that 42% of its purchases be made from small businesses certified by DSBSD. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. The contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status when they have also received DSBSD small business certification. Where it is not practicable for any portion of the goods/services to be subcontracted to other suppliers, the bidder/offeror shall note such on the Small Business Subcontracting Plan. No bidder/offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals.
2. Evidence of Compliance with Small Business Subcontracting Plan: Each prime contractor who wins an award in which provision of a small business



subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution monthly reports substantiating compliance in accordance with the small business subcontracting plan. If a variance exists, the contractor shall provide a written explanation. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds a certification as such by the DSBSD. Payment(s) may be withheld until the purchasing agency confirms that the contractor has certified compliance with the contractor's submitted Small Business Subcontracting Plan or is in receipt of a written explanation of the variance. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.

3. Prime Contractor Subcontractor Reporting:

- a. Each prime contractor who wins an award greater than \$100,000, shall deliver to the contracting agency or institution on a monthly basis, all applicable information for each subcontractor listed on the Small Business Subcontracting Plan that are DSBSD-certified businesses or Employment Services Organizations (ESOs). The contractor shall furnish the applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor's eVA account.
- b. In addition each prime contractor who wins an award greater than \$200,000 shall deliver to the contracting agency or institution on a monthly basis, all applicable information on use of subcontractors that are **not** DSBSD-certified businesses or Employment Services Organizations. The contractor shall furnish the all applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor's eVA account.

I. CONTINUITY OF SERVICES:

1. The Contractor recognizes that the services under this contract are vital to the Agency and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another contractor, may continue them. The Contractor agrees:
  - a. To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
  - b. To make all Agency owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and

- c. That the Agency Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.
2. The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.
3. The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

J. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the bidder or offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

K. E-VERIFY PROGRAM:

EFFECTIVE 12/1/13. Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease

upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

**L. FEDERALLY IMPOSED TARIFFS:**

In the event that the President of the United States, the United States Congress, Customs and Border Protection, or any other federal entity authorized by law, imposes an import duty or tariff (a "tariff"), on an imported good that results in an increase in contractor's costs to a level that renders performance under the Agreement impracticable, the Commonwealth may agree to an increase to the purchase price for the affected good. No increase in purchase price may exceed 25% of the additional tariff imposed on the goods imported or purchased by the contractor that are provided to the Commonwealth under this Agreement.

1. Prior to the Commonwealth agreeing to a price increase pursuant to this Section, the contractor must provide to the Commonwealth, the following documentation, all of which must be satisfactory to the Commonwealth:
  - a. evidence demonstrating: (i) the unit price paid by contractor as of the date of award for the good or raw material used to furnish the goods to the Commonwealth under this Agreement, (ii) the applicability of the tariff to the specific good or raw material, and (iii) contractor's payment of the increased import duty or tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient in detail and content to allow the Commonwealth to verify that the tariff is the cause of the price change.
  - b. a certification signed by contractor that it has made all reasonable efforts to obtain the good or the raw materials comprising the good procured by the Commonwealth at a lower cost from a different source located outside of the country against which the tariff has been imposed.
  - c. a certification signed by contractor that the documentation, statements, and any other evidence it submits in support of its request for a price increase under this Section are true and correct, and that the contractor would otherwise be unable to perform under this Agreement without such price increase.
  - d. as requested by the Commonwealth, written instructions authorizing the Commonwealth to request additional documentation from individuals or entities that provide the good or the raw materials to verify the information submitted by contractor.
2. If the Commonwealth agrees to a price increase pursuant to this Section, the parties further agree to add the following terms to this Agreement:

- a. During the Term and for five (5) years after the termination of this Agreement, contractor shall retain, and the Commonwealth and its authorized representatives shall have the right to audit, examine, and make copies of, all of contractor's books, accounts, and other records related to this Agreement and contractor's costs for providing goods to the Commonwealth, including, but not limited to those kept by the contractor's agents, assigns, successors, and subcontractors.
  - b. Notwithstanding anything to the contrary in this Agreement, the Commonwealth shall have the right to terminate this Agreement for the Commonwealth's convenience upon 15 days' written notice to contractor.
3. In the event the import duty or tariff is repealed or reduced prior to termination of this Agreement, the increase in the Commonwealth's contract price shall be reduced by the same amount and adjusted accordingly.
- a. Any material misrepresentation of fact by contractor relating in any way to the Commonwealth's payment of additional sums due to tariffs shall be fraud against the taxpayer's of the Commonwealth and subject contractor to treble damages pursuant to the Virginia Fraud Against Taxpayers Act.

## **Appendix 1**

### **ELECTRONIC DATA EXCHANGE (EDI)**

Financial Electronic Data Interchange Guide (EDI). Also found on Web location below, please note you will need Adobe Acrobat Reader Software to view this document.

<https://www.doa.virginia.gov/forms/EDI/AgreementVendor.pdf>

## Appendix 2

### Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to include this document with their bid response in order to be considered responsive.

**Small Business:** "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for bids. This shall also include DSBSD-certified women- owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status when they also hold a DSBSD certification as a small business on the bid due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify.

Certification applications are available through DSBSD online at [www.SBSD.virginia.gov](http://www.SBSD.virginia.gov) (Customer Service).

**Bidder Name:** \_\_\_\_\_

**Preparer Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Who will be doing the work:** ☐ I plan to use subcontractors ☐ I plan to complete all work

#### Instructions

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder's total price for the initial contract period in Section B.

#### Section A

If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number: \_\_\_\_\_ Certification Date: \_\_\_\_\_

#### Section B

If the "I plan to use subcontractors box is checked," populate the requested information below, per subcontractor to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation dollar value or percentages may result in breach of the contract.

## Plans for Utilization of DSBSD-Certified Small Businesses for this Procurement

### Subcontract #1

Company Name: \_\_\_\_\_ SBSD Cert #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ SBSD Certification: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Email: \_\_\_\_\_

Value % or \$ (Initial Term): \_\_\_\_\_ Contact Address: \_\_\_\_\_

Description of Work: \_\_\_\_\_

### Subcontract #2

Company Name: \_\_\_\_\_ SBSD Cert #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ SBSD Certification: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Email: \_\_\_\_\_

Value % or \$ (Initial Term): \_\_\_\_\_ Contact Address: \_\_\_\_\_

Description of Work: \_\_\_\_\_

### Subcontract #3

Company Name: \_\_\_\_\_ SBSD Cert #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ SBSD Certification: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Email: \_\_\_\_\_

Value % or \$ (Initial Term): \_\_\_\_\_ Contact Address: \_\_\_\_\_

Description of Work: \_\_\_\_\_

### Subcontract #4

Company Name: \_\_\_\_\_ SBSD Cert #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ SBSD Certification: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Email: \_\_\_\_\_

Value % or \$ (Initial Term): \_\_\_\_\_ Contact Address: \_\_\_\_\_

Description of Work: \_\_\_\_\_

### Subcontract #5

Company Name: \_\_\_\_\_ SBSD Cert #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ SBSD Certification: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Email: \_\_\_\_\_

Value % or \$ (Initial Term): \_\_\_\_\_ Contact Address: \_\_\_\_\_

Description of Work: \_\_\_\_\_

## Appendix 3

**COMMONWEALTH OF VIRGINIA**  
**Department of Human Resource Management**  
**STANDARD CONTRACT**

Contract Number: TRSDHRM22-01

This contract entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by \_\_\_\_\_ hereinafter called the "Contractor" and Commonwealth of Virginia, Department of Human Resource Management, hereafter called the "Purchasing Agency."

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the goods/services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From \_\_\_\_\_ through \_\_\_\_\_.

The contract documents shall consist of:

- (1) This signed form;
- (2) The following portions of the Request for Proposal dated \_\_\_\_\_:
  - (a) The Statement of Needs,
  - (b) The General Terms and Conditions,
  - (c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;  
Attachment \_\_\_\_\_, Date \_\_\_\_\_  
Attachment \_\_\_\_\_, Date \_\_\_\_\_
- (3) The Contractor's Proposal dated \_\_\_\_\_ and the following negotiated modifications to the Proposal, all of which documents are incorporated herein.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

PURCHASING AGENCY:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.**